



NOTICE OF VIOLATION

October 21, 2022

Certified Mail #: Hand delivered

Mr. David Grenoble
Brenntag
2000 E Pettigrew Street
Durham, NC 27703

Location of investigation: 1501 Sima Ave, Durham, NC

Dear Mr. Grenoble,

You are required to correct a violation of the City's Stormwater Management and Pollution Control Ordinance (the "Ordinance") found during a Stormwater Investigation (Reference #22WQ133) of your business. The investigation was conducted by Stormwater Investigator Christine Cailleret on 6/21/2022, as allowed by Ordinance § 70-525.

You have been identified as a party responsible for the business. According to the Ordinance, responsibility includes the ability to control what occurs on property through ownership of the property or through ownership, control, or management of a business, organization, or other entity whose activities occur on property, and also as provided in § 70-539(c). Violations of the Ordinance may be committed through deliberate action, negligence, omission, or inattention.

Violation and Corrective Actions

Below is a description of the violation(s). Also listed are the proposed civil penalties. A proposed civil penalty is the amount that you will be penalized if you take no action. The proposed amount will be decreased or suspended if the corrective actions are completed as required.

Each violation is a separate offense. Each day a violation continues may be a separate offense.

Violation

BMPs: Failure to implement proper Best Management Practices to prevent stormwater pollution. (Durham City Code Article 5, Division 2, Section 70-511(c)(1))

Proposed Penalty

\$44,000.00

Corrective Action**Deadline**

1. This Notice has been issued to Brenntag SE for failure to complete two corrective actions required in the July 14, 2022 Notice of Violation.

11/10/2022

Those two corrective actions, initially due by 25-Aug-2022, are:

- 1) Investigate and prepare a report documenting the extent of the downstream color, floc, and precipitate impacts [of the illicit discharge initially cited]

- 2) Perform a stream water color analysis of Third Fork Creek at Forest Hills Park. This will serve as the stream color and clarity benchmark that must be met in remediation of the tributary downstream of Brenntag Southeast.

The failure to analyze and map the extent of contamination by the August deadline is likely to have allowed contaminants to progress farther down the watershed. As a consequence, the City reserves the right to require Brenntag to conduct additional sampling and remediation if evidence of their illicit discharge is found farther downstream than initially observed by Water Quality staff.

THE FOLLOWING CORRECTIVE ACTIONS/BMPS ARE REQUIRED TO BE IMPLEMENTED:

- 1) Weekly written updates of progress (even if minor) must be submitted no later than the close of business each Friday. Email correspondence is sufficient if sent to James.Azarelo@durhamnc.gov and Michelle.Woolfolk@durhamnc.gov. The first update shall be due on 28-Oct-2022. Updates shall continue weekly until the matter is deemed resolved by the City.

- 2) No later than 10-Nov-2022, investigate and prepare a report documenting the downstream extent of the illicit discharge impacts. This must at a minimum include the visual indicators of color, floc, and stream bed precipitate. Analysis of water samples is additionally preferred, using our initial sample results for comparison.

- 3) No later than 10-Nov-2022, perform a stream water color analysis of Third Fork Creek at Forest Hills Park. This will serve as the stream color and clarity benchmark that must be met in remediation of the tributary downstream of the Brenntag facility.

Potential Penalties and Remedies

City Ordinance § 70-540(2) states that first-time violators are subject to base penalty amounts for each violation up to: \$500 for residential use properties, \$2,000 for non-residential use, and \$10,000 for NPDES facilities. After the first offense, violators may be subject to increased penalties.

To determine the amount of a penalty, the City considers factors such as harm to the environment and property, duration, and the cost of reversing the damage. Also considered are: money saved through noncompliance, prior knowledge of requirements, prior violations, actions taken to remediate impacts, and actions taken to prevent future violations. These factors may result in an increase or decrease of the base penalty for a violation.

The City may also use the administrative remedies in § 70-540(1) as well as the judicial actions in § 70-540(3) such as injunction, abatement, or prosecution as a criminal misdemeanor. In situations where water or sewer service may contribute to a violation, utility services may be terminated.

The City will issue you an additional written Notice if citing one or more violations, or if assessing a civil penalty, terminating utility service, or using any other remedy.

In situations where there is an unreasonable delay in compliance, an emergency, or a public nuisance, the City may take actions to remediate a violation (see § 70-542.) Under those circumstances, the City may bill the violator or lien the remediation costs against the property.

Request a Meeting or Provide Information

If you'd like to meet to discuss or present evidence about your responsibility, the violation(s), corrective action(s), civil penalties, or other remedies, you may request a meeting with Stormwater GIS Services. Meeting requests must be made within ten business days of receipt of this Notice. Requests may be made to the Stormwater Investigator either orally or in writing delivered either by hand or by mail.

Hand-delivery:

Christine Cailleret
Re: 22WQ133
Stormwater & GIS Services
Durham City Hall, 3rd Floor

Mail:

Christine Cailleret
Re: 22WQ133
City of Durham Dept. of Public Works
Stormwater & GIS Services
101 City Hall Plaza
Durham, NC 27701

Contact Stormwater Services

You are encouraged to contact staff promptly to discuss the required corrective actions. Contact the principal Stormwater Investigator (see signature).

An electronic copy of the City of Durham Stormwater Management and Pollution Control Ordinance, Chapter 70 Article V, can be found online at <http://durhamnc.gov/DocumentCenter/View/3133>. For a print copy of or questions about the Ordinance, please contact a Water Quality Staff Member at (919) 560-4326.

Respectfully,

Christine Cailleret
Environmental Planning and Compliance
Coordinator
(919) 560-4326 x30276
Christine.Cailleret@durhamnc.gov